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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,468

05/05/2006

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2114

7590 12/08/2009  
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EXAMINER

NICHOLS II, ROBERT K

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

12/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,468	<b>Applicant(s)</b> SITEMAN, WALTER DENIS	
	<b>Examiner</b> ROBERT K. NICHOLS II	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 3-12 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,7 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3,6,8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is responsive to the amendment filed on 08/03/2009. As directed by the amendment: claims 3, 6, 8 and 10 have been amended, claims 1 and 2 have been cancelled, and new claims 11 and 12 have been added. Thus, claims 3, 6, 8 and 10-12 are treated on the merits.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over  
Tuscher (US 5,941,629) in view of Alvey (US 6,736,523).**

Regarding claim 11, Tuscher discloses an instrument of defence 1 wherein a handle portion 13 has a free end thereof and a cavity (compartment) with a mouth opening outwardly from the free end thereof for the reception of a spray dispensing unit 14 including a spray head mechanism with a depending fluid reservoir (see figure 1, column 2, lines 32-33 and column 5, lines 8-15). Tuscher discloses the spray head mechanism sufficiently exposed at the cavity mouth and the cavity and reservoir having an axis of alignment (see figure 1). However, Tuscher is silent to the teaching of the cavity and reservoir presenting opposed axially extending boundary surfaces of mating configuration, substantially throughout their extent, and of a tolerance such that in mated alignment under a press fit such boundary surfaces exert sufficient frictional gripping engagement therebetween.

Alvey teaches an instrument of defence wherein a handle portion 30 has a free end and a cavity 56 with a mouth opening outwardly from the free end thereof for the reception of a spray dispensing unit including a spray head mechanism with a depending fluid reservoir 40 (see figs. 2 and 4). Alvey further discloses the cavity 56 and reservoir 40 presenting opposed axially extending boundary surfaces of mating configuration, substantially throughout their extent, and of a tolerance such that in mated alignment under a press fit such boundary surfaces exert sufficient frictional

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gripping engagement therebetween to interlock the two members (see figure 4 and column 3, lines 40-43).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the device of Tuscher with a cavity and reservoir presenting opposed axially extending boundary surfaces of mating configuration, substantially throughout their extent, and of a tolerance such that in mated alignment under a press fit such boundary surfaces exert sufficient frictional gripping engagement therebetween, as taught by Alvey, in order to provide a means for interlocking the two members, preventing axial or rotational movement.

**Claims 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banks et al. (US 5,529,215) in view of Alvey (US 6,736,523).**

Regarding claims 8, 10 and 11, Banks discloses an instrument of defence 10 having a baton configuration, wherein a handle portion 12 has a free end thereof and a cavity or compartment 14 with a mouth opening outwardly from the free end thereof for the reception of a spray dispensing unit 16 including a spray head mechanism with a depending fluid reservoir (see figure 3). Banks discloses the spray head mechanism sufficiently exposed at the cavity mouth and the cavity and reservoir having an axis of alignment (see figure 2). Banks further discloses an integral shaft portion (i.e. portion 24); wherein either the handle portion 12/52 or alternatively the shaft portion 24/64 are suitably apertured for reception of a tie or thong for supporting (see figs. 3 and 5, and column 6, lines 63-67). However, Banks is silent to the teaching of the cavity and

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reservoir presenting opposed axially extending boundary surfaces of mating configuration substantially throughout their extent and of a tolerance such that in mated alignment under a press fit such boundary surfaces exert sufficient frictional gripping engagement therebetween.

Alvey teaches an instrument of defence wherein a handle portion 30 has a free end and a cavity 56 with a mouth opening outwardly from the free end thereof for the reception of a spray dispensing unit including a spray head mechanism with a depending fluid reservoir 40 (see figs. 2 and 4). Alvey further discloses the cavity 56 and reservoir 40 presenting opposed axially extending boundary surfaces of mating configuration, substantially throughout their extent, and of a tolerance such that in mated alignment under a press fit such boundary surfaces exert sufficient frictional gripping engagement therebetween to interlock the two members (see figure 4 and column 3, lines 40-43).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the device of Banks with a cavity and reservoir presenting opposed axially extending boundary surfaces of mating configuration, substantially throughout their extent, and of a tolerance such that in mated alignment under a press fit such boundary surfaces exert sufficient frictional gripping engagement therebetween, as taught by Alvey, in order to provide a means for interlocking the two members, preventing axial or rotational movement.

**Claims 3, 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfram (US 5,405,134) in view of Alvey (US 6,736,523).**

Regarding claims 3, 8, 11 and 12, Wolfram discloses an instrument of defence including a handle portion 200 for an integral shaft portion 800, the handle portion 200 having a free end and a cavity 202 with a mouth opening outwardly from the free end thereof for the reception of a spray dispensing unit 900 including a spray head mechanism with a discharge orifice or nozzle 902 on one side, a displaceable spring-biased operating lever 904 disposed toward the other side and with a depending fluid reservoir (see figs. 1-4), the cavity 202 and reservoir having an axis of alignment (fig. 1). Wolfram discloses the spray head mechanism being disposed within the cavity mouth, the cavity mouth presenting a surrounding edge formation with a suitable contour exposing the discharge orifice 902 on one side (see figs. 1 and 2) and with a slot bordered by a ledge formation exposing the displaceable spring-biased operating lever 904 on the other side for displacement within the slot to dispense fluid spray (see figures 1 and 2). Wolfram further discloses the cavity mouth of the handle portion 200 opens outwardly in spaced apart relation to one end of the shaft portion 800 (see fig. 1) and wherein the girth of the handle portion 200 exceeds that of the shaft portion 800 via portion 260 (see figs 1-4). Wolfram discloses sufficient frictional gripping engagement between the cavity 202 and reservoir via bearing screws 910, to hold the same against separation (see column 2, lines 64-66). However, Wolfram fails to disclose the cavity and reservoir presenting opposed axially extending boundary surfaces of mating configuration, substantially throughout their extent, and of a tolerance such that in

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mated alignment under a press fit such boundary surfaces exert sufficient frictional gripping engagement therebetween.

Alvey teaches an instrument of defence wherein a handle portion 30 has a free end and a cavity 56 with a mouth opening outwardly from the free end thereof for the reception of a spray dispensing unit including a spray head mechanism with a depending fluid reservoir 40 (see figs. 2 and 4). Alvey further discloses the cavity 56 and reservoir 40 presenting opposed axially extending boundary surfaces of mating configuration, substantially throughout their extent, and of a tolerance such that in mated alignment under a press fit such boundary surfaces exert sufficient frictional gripping engagement therebetween to interlock the two members (see figure 4 and column 3, lines 40-43).

The substitution of one known element (press fit axially extending boundary surfaces as disclosed by Alvey) for another known element (bearing screws as disclosed by Wofram) would have been obvious to one of ordinary skill in the art at the time of the invention this amounts to simple substitution of one known element for another and would have yielded predictable results, namely, providing means for interlocking the two members, preventing axial or rotational movement, additionally simplifying construction and assembly.

***Response to Arguments***

Applicant's arguments submitted under "Remarks" in the response filed on 06/03/2009 have been fully considered but are moot in view of the new rejections made in this action.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT K. NICHOLS II whose telephone number is (571)270-5312. The examiner can normally be reached on Mon-Friday 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. K. N./  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art  
Unit 3754